

Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL.)

August 2, 1999

Dear Xxxxx:

This letter is in response to your letter dated July 9, 1999 which was received by our office on July 26, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

On January 6, 1999, I forwarded a letter to the Office of the Attorney General regarding an advertisement from COMPANY in CITY, Illinois, offering to pay the customer's sales tax on any purchase made New Year's Day. As you can see by the enclosed reply from the Attorney General, my letter was to be forwarded and reviewed by the Department of Revenue. No reply was ever received regarding action to resolve this matter.

I am now enclosing another advertisement with almost word-for-word identical advertising verbiage, dated Saturday, July 3, 1999, in which COMPANY is again offering to pay the customer's sales tax on any purchase made that day. As I am sure you are very much aware, this is a violation of State law.

Since this is the second time this type of advertisement has appeared, I look forward to hearing from the Department of Revenue regarding any action to be taken in this matter.

Thank you for informing the Department of the advertisements referenced in your letter. It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the Use Tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under the Retailers' Occupation Tax Act or under the Use Tax Act. Any person violating any of the provisions of the law as explained in the preceding sentence is guilty of a misdemeanor and subject to the penalties provided in the Use Tax Act. See the enclosed copy of 86 Ill. Adm. Code 150.515.

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In such cases, the Department informs the business making the advertisement that the advertisement violates Section 7 of the Use Tax Act and that it should immediately cease such advertising. The business is also warned that any future advertisements of this kind will be viewed as a continuing violation, which could result in criminal prosecution. However, due to the confidentiality provisions incorporated into the Use Tax Act, any investigation taken against the business cannot be disclosed by the Department.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.